

BILL LOCKYER, Attorney General
of the State of California
LINDA K. SCHNEIDER, State Bar No. 101336
Deputy Attorney General
California Department of Justice
110 West "A" Street, Suite 1100
San Diego, California 92101

P.O. Box 85266
San Diego, California 92186-5266
Telephone: (619) 645-3037
Facsimile: (619) 645-2061

Attorneys for Complainant

**BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

TERRENCE J. SCANLAN
235 16th Street
Seal Beach, CA 90740

Certified Public Accountant Certificate
Number 52565

Respondent.

Case No. AC-2001-10

DEFAULT ORDER AND DECISION

STATUTES AND REGULATIONS

1. California Government Code section 11506 provides, in pertinent part:

“(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and any such notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent’s right to a hearing, but the agency in its discretion may nevertheless grant a hearing. Unless objection is taken as provided in paragraph (3) of subdivision (a), all objections to the form of the accusation shall be deemed waived.”

California Government Code section 11506 further provides that the Notice of Defense shall be filed within 15 days after service of the Accusation. [Govt. Code sections 11506(a) and (b)].

2. California Government Code section 11520 provides, in pertinent part:

“(a) If the respondent either fails to file a notice of defense or to appear at the

1 hearing, the agency may take action based upon the respondent's express
2 admissions or upon other evidence and affidavits may be used as evidence without
any notice to respondent...."

3 3. The Board of Accountancy, Department of Consumer Affairs ("Board"), is
4 authorized to revoke Respondent's Certified Public Accountant License pursuant to California
5 Business and Professions Code ("Code") section 5100, which authorizes the Board of
6 Accountancy to revoke, suspend or refuse to renew or censure the holder of any permit or
7 certificate granted under Articles 4 (commencing with section 5070) and 5 (commencing with
8 section 5080) of the Code for unprofessional conduct.

9 4. Pursuant to section 5100 of the Code, unprofessional conduct includes, but
10 is not limited to, one or any combination of the following causes:

11 "..."

12 "(h) Fiscal dishonesty or breach of fiduciary responsibility of any kind.

13 "(i) Knowing preparation, publication or dissemination of false, fraudulent, or
14 materially misleading financial statements, reports, or information.

15 "(j) Embezzlement, theft, misappropriation of funds or property, or obtaining
16 money, property, or other valuable consideration by fraudulent means or false pretenses."

17 5. Section 118, subdivision (b), of the Code provides, in pertinent part, that
18 the expiration of a license shall not, during any period in which it may be renewed, restored,
19 reissued or reinstated, deprive the Board of authority to institute or continue with a disciplinary
20 proceeding or otherwise to take disciplinary action against the licensee.

21 FINDINGS OF FACT

22 6. On or about March 18, 1989, Certified Public Accountant Certificate No.
23 CPA 52565 was issued by the Board to Terrence J. Scanlan ("Respondent"). The certificate is on
24 inactive status and will expire on February 28, 2003.

25 7. On or about April 4, 2001, Carol B. Sigmann, in her official capacity as
26 Executive Officer of the Board, filed Accusation No. AC-2001-10 against Respondent. A true
27 and correct copy of the Accusation is attached hereto as Exhibit A and is incorporated as if fully
28 set forth herein.

1 8. On or about April 9, 2001, Veronica Cruz, an employee of the Office of
2 the Attorney General, sent by certified and first class mail a copy of Accusation No. AC-2001-10,
3 Statement to Respondent, Government Code sections 11507.5, 11507.6 and 11507.7, the Notice
4 of Defense form (two copies), and a Request for Discovery to Respondent's address of record
5 with the Board, which was and is 235 16th Street, Seal Beach, California 90740. The certified
6 mail package was delivered by the Post Office on April 11, 2001. The domestic mail return
7 receipt was signed by Respondent, and returned to the Office of the Attorney General (received
8 April 16, 2001). The above-described service was effective as a matter of law pursuant to
9 provisions of California Government Code section 11505(c).

10 9. Respondent failed to file a Notice of Defense or to otherwise respond
11 within 15 days after service of the Accusation upon Respondent at his address of record.
12 Respondent thereby waived his right to a hearing on the merits of Accusation No. AC-2001-10.

13 10. Pursuant to its authority under Government Code section 11520, and based
14 on the evidence before it, the Board finds that the following allegations contained in Accusation
15 AC-2001-10 are true.

16 11. In or about March 1991, Respondent was hired as Vice President of
17 Finance for Spectrum Laboratory Products, Inc. ("Spectrum") located in Gardena, California, and
18 New Brunswick, New Jersey. Respondent was promoted to President and Chief Executive
19 Officer ("CEO") of Spectrum in or around 1994. Respondent ceased employment with Spectrum
20 in or around June 1999. As President and CEO of Spectrum, Respondent was a co-signer on all
21 company bank accounts with Paul Burg, founder and Chairman. Respondent had complete access
22 to checks, check records and bank statements for two bank accounts in particular: Bank of
23 America Account No. 14591-01565 for Burg & Son, a company related to Spectrum that owns
24 one of the buildings in which Spectrum is housed, and Chase Manhattan Bank (formerly Chemical
25 Bank) Account No. 257-013288 for Spectrum. Respondent also had possession of Paul Burg's
26 signature stamp.

27 12. In or around April 2000, the Burg & Son Bank of America Account No.
28 14591-01565 was reviewed by an outside accountant. The check register for the account was

1 compared with some of the checks that were written from the account. The review revealed the
2 following discrepancies between the check register and actual checks written:

3 A. The check register for check number 1212 showed that the check
4 had been written on June 4, 1998 payable to V.S. Intini in the amount of \$37,066.23 for a fixed
5 asset purchase. A copy of the check was obtained from Bank of America and was compared to
6 the entry in the check register. Check number 1212 was, in fact, made payable to Terrence
7 Scanlan for \$37,066.23. It was endorsed by Respondent and deposited into Respondent's
8 Account No. 1449079241 at Home Savings, now Washington Mutual. Mr. Burg's signature
9 stamp had been used to sign the check.

10 B. The check register showed that check number 1213 had been issued
11 to Diversified Rack and Shelving on June 22, 1998 in the amount of \$42,774.08 for a fixed asset
12 purchase. The canceled check was obtained from Bank of America. Check number 1213 was, in
13 fact, made payable to Terrence Scanlan, had been signed with Mr. Burg's signature stamp, was
14 endorsed by Terrence Scanlan, and was deposited into Respondent's Account No. 1449079241
15 with Home Savings.

16 13. In or around early 1998, an outside accountant performed a reconciliation
17 of Spectrum's Account No. 257-013288 with Chemical Bank for calendar year 1997. The
18 account did not reconcile. When questioned about why the account could not be reconciled,
19 Respondent provided documentation to show that the discrepancies were attributable to manual
20 checks (rather than computer generated checks which were typically used by Spectrum) that had
21 been written on Account No. 257-013288 to make payments on a loan that had been extended to
22 the company by Mr. Burg. Respondent provided a copy of a disbursements journal for Account
23 No. 257-013288, which showed loan repayments to Mr. Burg. Respondent had written the
24 disbursements journal in his own hand. In May 2000, copies of canceled checks, which had been
25 reported in the disbursements journal as loan repayments, were obtained from Chase Manhattan
26 (formerly Chemical Bank). The checks, which total \$531,000.00 [Five Hundred Thirty One
27 Thousand Dollars] and which were issued between 1996 and 1998, all were made payable to
28 Terrence Scanlan and endorsed by Respondent. Check numbers 189-191, 193, 195, 197, 201,

1 and 202 were deposited into Respondent's Account No. 122637846 at Coast Federal Savings
2 (now Washington Mutual). Check numbers 192, 194, and 196 were deposited into Account No.
3 123067605 (a banking institution known to Respondent, but unknown to Complainant).

4 DETERMINATION OF ISSUES

5 By reason of the foregoing Findings of Fact, Respondent is subject to disciplinary
6 action under section 5100 of the Business and Professions Code based upon each of the following
7 determinations:

8 14. Respondent's license to practice as a Certified Public Accountant is subject
9 to discipline for unprofessional conduct under section 5100, subdivision (j), of the Code in that
10 Respondent embezzled, stole, misappropriated and/or obtained money by fraudulent means or
11 false pretenses from Burg & Son and Spectrum. The circumstances are as follows:

12 A. Paragraphs 11 through 13, above, are hereby incorporated by this
13 reference as though fully set forth herein.

14 B. Respondent wrote checks payable to himself, without authorization,
15 from Chemical Bank Account No. 257-013288 for Spectrum in the amount of \$531,000.00 [Five
16 Hundred Thirty One Thousand Dollars] for his own use and from Bank of America Account No.
17 14591-01565 for Burg & Son in the amount of \$79,840.31 [Seventy Nine Thousand Eight
18 Hundred Forty Dollars and Thirty One Cents] for his own use thus depriving Burg & Son and
19 Spectrum from the use of these funds.

20 15. Respondent's license to practice as a Certified Public Accountant is subject
21 to discipline for unprofessional conduct under section 5100, subdivision (h), of the Code in that
22 Respondent is guilty of fiscal dishonesty and/or breach of fiduciary responsibility in the discharge
23 of his duties as President and CEO for Spectrum. The circumstances are as follows:

24 A. Paragraphs 11 through 13, above, are hereby incorporated by this
25 reference as though fully set forth herein.

26 B. Respondent is guilty of fiscal dishonesty and/or breach of fiduciary
27 responsibility in that he took advantage of his position with Spectrum and Burg & Son and his
28 access to their checking accounts referred to above to divert the amount of \$79,840.31 [Seventy

1 Nine Thousand Eight Hundred Forty Dollars and Thirty One Cents] from Burg & Son for his own
2 use.

3 C. Respondent is guilty of fiscal dishonesty and/or breach of fiduciary
4 responsibility in that he took advantage of his position with Spectrum and Burg & Son and his
5 access to their checking accounts referred to above to divert the amount of \$531,000.00 [Five
6 Hundred Thirty One Thousand Dollars] from Spectrum for his own use.

7 16. Respondent's license to practice as a Certified Public Accountant is subject
8 to discipline for unprofessional conduct under section 5100, subdivision (i), of the Code in that
9 Respondent knowingly prepared, published, or disseminated false, fraudulent, or materially
10 misleading financial statements, reports or information to Burg & Son and Spectrum. The
11 circumstances are as follows:

12 A. Paragraphs 11 through 13, above, are hereby incorporated by this
13 reference as though fully set forth herein.

14 B. As described in paragraphs 12 and 13 above, Respondent made
15 false entries in the cash disbursements journal for the Chemical Bank Account No. 257-013288
16 for Spectrum and made false entries in the check register for the Bank of America Account No.
17 14591-01565 for Burg & Son.

18 17. Under each of the Determination of Issues, based upon the Findings of
19 Fact, cause for disciplinary action by way of revocation of licensure has been established.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

- 2
- 3
- 4

5
6
7
8

9

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 BILL LOCKYER, Attorney General
of the State of California
2 LINDA K. SCHNEIDER, State Bar No. 101336
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, California 92101
5 P.O. Box 85266
San Diego, California 92186-5266
6 Telephone: (619) 645-3037
Facsimile: (619) 645-2061

7 Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF ACCOUNTANCY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. AC-2001-10

13 TERRENCE J. SCANLAN
235 16th Street
14 Seal Beach, CA 90740

A C C U S A T I O N

15 Certified Public Accountant Certificate
Number 52565

16 Respondent.
17

18
19 Complainant alleges:

20 PARTIES

21 1. Carol B. Sigmann ("Complainant") brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Accountancy, Department of Consumer
23 Affairs.

24 2. On or about March 18, 1989, the Board of Accountancy issued Certified
25 Public Accountant Certificate Number 52565 to Terrence J. Scanlan ("Respondent"). The
26 Certified Public Accountant Certificate was renewed in an inactive status on February 28, 2001.
27 The Certified Public Accountant Certificate was in full force and effect at all times relevant to the
28 charges brought herein and will expire on February 28, 2003, unless renewed.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

3. This Accusation is brought before the Board of Accountancy ("Board")

4. Section 5100 of the Code states that “[a]fter notice and hearing the board

9

10

11

13

5. Section 5107, subdivision (a), of the Code states, in pertinent part, that the

6. Section 118, subdivision (b), of the Code provides that the expiration of a

24

7. In or about March 1991, Respondent was hired as Vice President of

1 in or around June 1999.

2 8. As President and CEO of Spectrum, Respondent was a co-signer on all
3 company bank accounts with Paul Burg, founder and Chairman. Respondent had complete access
4 to checks, check records and bank statements for two bank accounts in particular: Bank of
5 America Account No. 14591-01565 for Burg & Son, a company related to Spectrum that owns
6 one of the buildings in which Spectrum is housed, and Chase Manhattan Bank (formerly Chemical
7 Bank) Account No. 257-013288 for Spectrum. Respondent also had possession of Paul Burg's
8 signature stamp.

9 9. In or around April 2000, the Burg & Son Bank of America Account No.
10 14591-01565 was reviewed by an outside accountant. The check register for the account was
11 compared with some of the checks that were written from the account. The review revealed the
12 following discrepancies between the check register and actual checks written:

13 A. The check register for check number 1212 showed that the check
14 had been written on June 4, 1998 payable to V.S. Intini in the amount of \$37,066.23 for a fixed
15 asset purchase. A copy of the check was obtained from Bank of America and was compared to
16 the entry in the check register. Check number 1212 was, in fact, made payable to Terrence
17 Scanlan for \$37,066.23. It was endorsed by Respondent and deposited into Respondent's
18 Account No. 1449079241 at Home Savings, now Washington Mutual. Mr. Burg's signature
19 stamp had been used to sign the check.

20 B. The check register showed that check number 1213 had been issued
21 to Diversified Rack and Shelving on June 22, 1998 in the amount of \$42,774.08 for a fixed asset
22 purchase. The canceled check was obtained from Bank of America. Check number 1213 was, in
23 fact, made payable to Terrence Scanlan, had been signed with Mr. Burg's signature stamp, was
24 endorsed by Terrence Scanlan, and was deposited into Respondent's Account No. 1449079241
25 with Home Savings.

26 10. In or around early 1998, an outside accountant performed a reconciliation
27 of Spectrum's Account No. 257-013288 with Chemical Bank for calendar year 1997. The
28 account did not reconcile. When questioned about why the account could not be reconciled,

1 Respondent provided documentation to show that the discrepancies were attributable to manual
2 checks (rather than computer generated checks which were typically used by Spectrum) that had
3 been written on Account No. 257-013288 to make payments on a loan that had been extended to
4 the company by Mr. Burg. Respondent provided a copy of a disbursements journal for Account
5 No. 257-013288, which showed loan repayments to Mr. Burg. Respondent had written the
6 disbursements journal in his own hand. In May 2000, copies of the canceled checks which had
7 been reported in the disbursements journal were obtained from Chase Manhattan (formerly
8 Chemical Bank). The checks, which total \$531,000.00 [Five Hundred Thirty One Thousand
9 Dollars], were all made payable to Terrence Scanlan and endorsed by Respondent. Check
10 numbers 189-191, 193, 195, 197, 201, and 202 were deposited into Respondent's Account No.
11 122637846 at Coast Federal Savings (now Washington Mutual). Check numbers 192, 194, and
12 196 were deposited into Account No. 123067605 (a banking institution known to Respondent,
13 but unknown to Complainant).

14 FIRST CAUSE FOR DISCIPLINE

15 (Misappropriation of Funds)

16 11. Respondent's certificate is subject to disciplinary action under Code section
17 5100(j) for unprofessional conduct in that Respondent embezzled, stole, misappropriated and/or
18 obtained money by fraudulent means or false pretenses from Burg & Son and Spectrum. The
19 circumstances are as follows:

20 A. Paragraphs 7 through 10, above, are hereby incorporated by this
21 reference as though fully set forth herein.

22 B. Respondent wrote checks payable to himself, without authorization,
23 from Chemical Bank Account No. 257-013288 for Spectrum in the amount of \$531,000.00 [Five
24 Hundred Thirty One Thousand Dollars] for his own use and from Bank of America Account No.
25 14591-01565 for Burg & Son in the amount of \$79,840.31 [Seventy Nine Thousand Eight
26 Hundred Forty Dollars and Thirty One Cents] for his own use thus depriving Burg & Son and
27 Spectrum from the use of these funds.

28 ///

1 SECOND CAUSE FOR DISCIPLINE

2 (Fiscal Dishonesty and/or Breach of Fiduciary Responsibility)

3 12. Respondent's certificate is further subject to disciplinary action under Code
4 section 5100(h) for unprofessional conduct in that Respondent is guilty of fiscal dishonesty and/or
5 breach of fiduciary responsibility in the discharge of his duties as President and Chief Executive
6 Officer for Spectrum. The circumstances are as follows:

7 A. Paragraphs 7 through 10, above, are hereby incorporated by this
8 reference as though fully set forth herein.

9 B. Respondent is guilty of fiscal dishonesty and/or breach of fiduciary
10 responsibility in that he took advantage of his position with Spectrum and Burg & Son and his
11 access to their checking accounts referred to above to divert the amount of \$79,840.31 [Seventy
12 Nine Thousand Eight Hundred Forty Dollars and Thirty One Cents] from Burg & Son for his own
13 use.

14 C. Respondent is guilty of fiscal dishonesty and/or breach of fiduciary
15 responsibility in that he took advantage of his position with Spectrum and Burg & Son and his
16 access to their checking accounts referred to above to divert the amount of \$531,000.00 [Five
17 Hundred Thirty One Thousand Dollars] from Spectrum for his own use.

18 THIRD CAUSE FOR DISCIPLINE

19 (Knowing Preparation of False, Fraudulent, or
20 Materially Misleading Reports or Other Information)

21 13. Respondent's certificate is further subject to disciplinary action under Code
22 section 5100(i) for unprofessional conduct in that he knowingly prepared, published, or
23 disseminated false, fraudulent, or materially misleading financial statements, reports or
24 information to Burg & Son and Spectrum. The circumstances are as follows:

25 A. Paragraphs 7 through 10, above, are hereby incorporated by this
26 reference as though fully set forth herein.

27 B. As alleged in paragraphs 9 and 10, above, Respondent made false
28 entries in the cash disbursements journal for the Chemical Bank Account No. 257-013288 for

1 Spectrum and made false entries in the check register for the Bank of America Account No.
2 14591-01565 for Burg & Son.

3
4 COST RECOVERY

5 14. Pursuant to Code section 5107, subdivision (a), in the event Respondent is
6 found guilty of unprofessional conduct in violation of Code section 5100, subdivisions (h), (i) or
7 (j), Complainant requests that Respondent be ordered to pay to the Board all reasonable costs of
8 investigation and prosecution of the case, including, but not limited to, attorneys' fees.

9
10 RESTITUTION

11 15. Pursuant to Government Code section 11519, subdivision (d), if
12 Respondent is granted probation. Complainant requests that restitution be ordered to be paid by
13 Respondent to Burg & Son and Spectrum to repay the amounts of money he diverted from their
14 bank accounts.

15
16 PRAYER

17
18 WHEREFORE, Complainant requests that a hearing be held on the matters herein
19 alleged, and that following the hearing, the Board of Accountancy issue a decision:

20 1. Revoking or suspending Certified Public Accountant Certificate Number
21 52565, issued to Terrence J. Scanlan;

22 2. Ordering Terrence J. Scanlan to pay the Board of Accountancy the
23 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
24 Professions Code section 5107;


25 3. Ordering Terrence J. Scanlan to pay restitution to Burg & Son and
26 Spectrum if probation is ordered; and

27 ///

28 ///

4. Taking such other and further action as deemed necessary and proper.

DATED: April 4, 2001.


CAROL B. SIGMANN
Executive Officer
Board of Accountancy
Department of Consumer Affairs
State of California
Complainant